

STATE OF MONTANA COMPLIANCE SUPPLEMENT FOR AUDITS OF LOCAL GOVERNMENT ENTITIES	REF: CNTY-11
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PROGRAM/SUBJECT: Counties - Rural Special Improvement Districts (RSID's)	

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COMPLIANCE REQUIREMENTS AND SUGGESTED AUDIT PROCEDURES:

CREATION OF RURAL SPECIAL IMPROVEMENT DISTRICT (RSID):

1. Compliance Requirements:

- The creation of rural special improvement districts must be approved by the board of county commissioners and the districts must be established under the provisions of Title 7, Chapter 12, Part 21, MCA.
- There should be a legal review of the process by the county attorney, however, once the district is created it is not the duty of a county attorney to represent rural improvement districts. (MCA 7-4-2711 and AGO # 27, Vol. 40)

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COMPLIANCE REQUIREMENTS AND SUGGESTED AUDIT PROCEDURES:

CREATION OF RURAL SPECIAL IMPROVEMENT DISTRICT (RSID) - continued:

Suggested Audit Procedure:

- If any new rural special improvement districts were created during the audit period, review documentation on file with the county and determine that the creation of the district was approved by the county commissioners, reviewed by the county attorney, and that the creation of the district and the method of assessment appear to be in accordance with the provisions of Title 7, Chapter 12, Part 21, MCA.

SALE OF RSID BONDS:

2. Compliance Requirement:

- The board of county commissioners may issue rural special improvement district (RSID) bonds or warrants to pay for the cost of improvements that are to be assessed against the benefited property within the district. If the RSID bonds or warrants are not sold at a private sale, notice of the sale of RSID bonds must be given as specified under MCA 7-7-4251, 7-7-4252, and 7-7-4254. (MCA 7-12-2169, 7-12-2171, and 7-12-2172)
- The bonds may extend over a period not to exceed 30 years. However, if federal loans are available for improvements, repayment may extend over a period not to exceed 40 years. For the purposes of this subsection, the term of a bond issue commences on July 1 of the fiscal year in which the county first levies to pay principal and interest on the bonds. (MCA 7-12-2171(2))

Suggested Audit Procedure:

- If rural special improvement district bonds or warrants were issued during the audit period, determine if the bonds were properly sold as stated above and that the term of the bonds did not exceed 30 years or, if there was a federal loan, 40 years.

ENGINEER'S RECORDS:

3. Compliance Requirement:

- The engineer selected by the county commissioners for the rural special improvement district shall keep an account of all costs and expenses incurred in connection with the RSID and certify the costs and expenses to the county clerk. (MCA 7-12-2117)

Suggested Audit Procedure:

- Determine that the engineer for the RSID kept a record of all costs and expenses incurred in connection with the RSID and that those costs were certified to the county clerk.

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COMPLIANCE REQUIREMENTS AND SUGGESTED AUDIT PROCEDURES:

ALLOWABLE INCIDENTAL EXPENSES:

4. Compliance Requirements:

- Authorized incidental expenses which are considered part of the cost of making the improvements are as follows:
 1. compensation of the engineer for work done on the district;
 2. cost of printing and advertising;
 3. interest on warrants issued by the county to pay costs of the improvements;
 4. cost of issuance of bonds or warrants of the RSID, including costs of printing the bonds, bond registration fees, attorneys' fees and financial consultants' fees, a premium for bond insurance, any price paid by the original purchaser of the bonds that is less than the face amount thereof, and interest to accrue on bonds or warrants of the RSID before assessments levied by the district are collected in amounts and at times sufficient to pay such interest;
 5. a reasonable administrative fee payable to the county for the creation and administration of the district by the county, its officers, and its employees;
 6. costs of preparing plans, specifications, maps, and plats;
 7. engineering, superintendence, and inspection; and
 8. preparation of assessment rolls.

(MCA 7-12-2101(7) and 7-12-2153(1))
- All demands for incidental expenses, except the administrative fee of the county and interest payable on warrants or bonds of the district, shall be presented to the county clerk by itemized bill. (MCA 7-12-2119)

Suggested Audit Procedure:

- Test incidental expenses considered to be costs of the district to determine if they are for authorized purposes as specified above, and are properly documented.

ASSESSING RSID COSTS:

5. Compliance Requirements:

- Costs of an RSID may be assessed using one or a combination of the following methods. If more than one improvement is undertaken, each lot need not be assessed for the cost of all improvements. (MCA 7-12-2151)
 - a. Area option - Each lot, tract, or parcel of land assessed in the district may be assessed with that part of the whole cost which its assessable area bears to the assessable area of all benefited lots, tracts, or parcels in the district, exclusive of streets, avenues, alleys, and public places. The assessable area may be less than but may not exceed the actual area of the lot or parcel. (MCA 7-12-2151(1)(a))

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COMPLIANCE REQUIREMENTS AND SUGGESTED AUDIT PROCEDURES:

ASSESSING RSID COSTS - continued:

5. Compliance Requirements - continued:

- b. Assessed valuation option - Each lot, tract, or parcel of land assessed in the district may be assessed with that part of the whole cost of the improvement based on the assessed value of the benefited lots or pieces of land within the district, if the board of county commissioners determines the assessment to be equitable in proportion to and not exceeding the benefits received from the improvements by the lot, tract, or parcel. (MCA 7-12-2151(1)(b))
- c. Frontage option - Each lot, tract, or parcel of land in the district abutting upon the street where the improvement has been made may be assessed in proportion to its lineal feet abutting the street. (MCA 7-12-2151(1)(c))
- d. Equal option amount - Each lot, tract, or parcel of land in the district may be assessed an equal amount based on the total cost of the improvement. (MCA 7-12-2151(1)(d))
- e. Utility Service Connections Option - Each lot, tract, or parcel of land in the district served by a utility connection may be assessed an equitable lump sum for the connection based on the bid price in the applicable contract. (MCA 7-12-2151(1)(e))

(Note: In fixing the boundaries of a rural improvement district, a Board of County Commissioners may include less than the entire amount of a lot so as to equalize costs borne by each lot. (Warner v. Gallatin County Commissioner's, 220 M 430, 715 P2d 1068, 43 St. Rep. 502 (1986)).)

Suggested Audit Procedure:

- Review the method that the county used to assess the costs of the special improvement district to determine if they were assessed to each property owner in accordance with one or more of the allowable options described above.

EXEMPTION FOR FEDERAL PROPERTY:

6. Compliance Requirement:

- Federal government property is exempt from the special assessments. The cost related to the federal property shall be paid by the county from its general fund. (MCA 7-12-2157)

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COMPLIANCE REQUIREMENTS AND SUGGESTED AUDIT PROCEDURES:

EXEMPTION FOR FEDERAL PROPERTY - continued:

6. Compliance Requirement - continued:

(Note: An irrigation company engaged in the reclamation of arid lands under the Carey Act is not a mandatory of the federal government and therefore not exempt from assessments for special improvements. (Billings Bench Water Association v. Yellowstone County, 70 M 401, 225 P 996 (1924)).)

Suggested Audit Procedure:

- Determine if the special assessment on any federal government property in an RSID was paid from the county's general fund.

RESOLUTION REQUIREMENTS & ADMINISTRATIVE FEE:

7. Compliance Requirements:

- Before an RSID assessment may be levied on the benefited property, the county commissioners shall pass a resolution. (MCA 7-12-2158)
- The resolution must be signed by the presiding officer of the board and is kept on file in the office of the county clerk.) (MCA 7-12-2158)
- Notice of the resolutions must be published in a newspaper, as described in MCA 7-12-2159, and notice of the resolution and assessment must be mailed to the owner of each lot, tract, or parcel of land to be assessed, and to such other persons known to the county clerk to have an ownership interest in the property. The notices shall state the time and place at which objections to the final adoption of such resolution will be heard by the county commissioners. (MCA 7-12-2159) A hearing on the resolution must be held. (MCA 7-12-2160)
- The board of county commissioners shall estimate, as near as practicable, the cost of maintaining, preserving, or repairing the improvements in each district and may pass and finally adopt a resolution levying and assessing all the property within the districts with an amount equal to the whole cost of maintaining the improvements. (MCA 7-12-2161)
- In lieu of an assessment, the board shall otherwise provide for the whole cost of maintaining, preserving, or repairing the improvements in the district. (MCA 7-12-2161)

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COMPLIANCE REQUIREMENTS AND SUGGESTED AUDIT PROCEDURES:

RESOLUTION REQUIREMENTS & ADMINISTRATIVE FEE - continued:

7. Compliance Requirements - continued:

- To defray the costs incurred by the county in administering each maintenance district, the lesser of \$500 or 5% of the annual assessment shall be included in the estimated cost of maintaining each district. This fee must be deposited in the county general fund. (MCA 7-12-2161)

Suggested Audit Procedures:

- Determine that all assessments were established by resolution of the board of county commissioners in accordance with statutory requirements, and that required notices were published and sent to property owners and others with an ownership interest.
- Determine that the annual assessment included an amount equal to the lesser of \$500 or 5% of the annual assessment to defray administrative costs and that the fee was deposited in the county general fund.

MAINTENANCE ASSESSMENTS & ADMINISTRATIVE FEE:

8. Compliance Requirements:

- Maintenance assessments collected on the districts must be deposited in separate maintenance funds. Such fund shall be used to defray the expense of maintenance, preservation, or repair of the district and for no other purpose. (MCA 7-12-2162)
- The portion of the annual assessments to be used to defray administrative costs (the lesser or \$500 or 5% of the annual assessment) must be deposited in the county general fund. (MCA 7-12-2161(5))

Suggested Audit Procedures:

- Test selected receipts of maintenance assessments and determine that they were deposited in a separate maintenance fund for each district, and verify that that expenses were for maintenance, preservation, or repair of the district and for no other purpose.
- Determine that the portion of the assessment intended to defray administrative costs was deposited to the county general fund.

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COMPLIANCE REQUIREMENTS AND SUGGESTED AUDIT PROCEDURES:

INSUFFICIENT OR EXCESSIVE ASSESSMENT ADJUSTMENTS:

9. Compliance Requirement:

- Whenever any assessment is made and any property is assessed too little or too much, the county may reassess an additional amount or may reduce the amount of tax collected. (MCA 7-12-2165)

(Note: In the case of State ex rel Truax v Lima, it was held that a similar MCA of law for special improvement districts in cities and towns (MCA 7-12-4186) does not authorize reassessments to make up for delinquent assessments.)

Suggested Audit Procedures:

- Inquire as to whether assessments are reviewed yearly for adequacy of funding.
- Review selected RSID fund balances to determine if they are insufficient or excessive. If they are, inquire as to what action will be taken to adjust them.

INTEREST RATE ON UNPAID ASSESSMENTS:

10. Compliance Requirements:

- **Applicable to RSID's created on or prior to March 24, 1995** - Simple interest must be charged upon all special assessments at an annual rate of the sum of ½ of 1% per year plus the average interest rate payable on the outstanding bonds or warrants of the RSID. (MCA 7-12-2176)
- **Applicable to RSID's created after March 24, 1995**** - Simple interest must be charged upon all special assessments at an annual rate equal to the sum of ½ of 1% per year; plus the average interest rate payable on the outstanding bonds or warrants of the RSID; plus, at the option of the board of county commissioners, up to an additional ½ of 1% a year. The board of county commissioners may subsequently reduce or eliminate the additional interest rate, but once reduced or eliminated, it may not be subsequently increased or reimposed. (MCA 7-12-2176)

(Note:** This revision applies to all RSID's created after March 24, 1995, and, at the option of the county, to bonds and warrants issued after March 24, 1995, if the district was created before that date.)

- For Variable Rate RSID Bonds – If and so long as the bonds or warrants secured by the assessments bear interest at a variable rate, the installments of assessments remaining unpaid must bear simple interest at an annual rate equal to the sum of:
 1. 1% a year; plus

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COMPLIANCE REQUIREMENTS AND SUGGESTED AUDIT PROCEDURES:

INTEREST RATE ON UNPAID ASSESSMENTS - continued:

10. Compliance Requirements - continued:

2. the interest rate payable on the outstanding bonds or warrants of the rural special improvement district at the time the assessment is levied each fiscal year; plus
3. to the extent that the interest rate on the bonds or warrants is then less than the maximum rate prescribed for the bonds or warrants or if there is no prescribed maximum rate, up to an additional 1% a year, as may be prescribed by the board of county commissioners in the resolution authorizing the issuance or sale of the bonds or warrants. (MCA 7-12-2176)

Suggested Audit Procedure:

- Test interest charged on the assessments to determine that they are within the legal limits.

TERMS AND PAYMENT FREQUENCY OF ASSESSMENTS:

11. Compliance Requirement:

- Payment of the assessments may be spread over a term not to exceed 30 years, although if federal loans are available, payments may be spread over a term of not to exceed 40 years. Assessments are payable in equal semiannual installments. (MCA 7-12-2167 & 7-12-2171(2))

Suggested Audit Procedure:

- Test selected RSID assessments to determine that the payment period does not exceed 30 years (except that if federal loans are available, repayment may extend over a period not to exceed 40 years), and that the payments are made in equal semiannual installments.

PREPAYMENT OF RSID:

12. Compliance Requirement:

- Any assessment that is not delinquent may be prepaid, in whole but not in part. The interest will accrue and be payable through the next date on which interest on the bonds of the rural special improvement district is payable. (MCA 7-12-2167(4))

Suggested Audit Procedure:

- Test selected RSID assessment prepayments to determine if interest was properly calculated, as described above, and that the taxpayer was required to pay off the RSID assessment in whole.

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COMPLIANCE REQUIREMENTS AND SUGGESTED AUDIT PROCEDURES:

INVESTMENT EARNINGS:

13. Compliance Requirements:

- During the construction of improvements, all interest earned on the investment of RSID bond or warrant proceeds must be credited to the construction account of the district fund. (MCA 7-12-2173)
- Interest earned on RSID debt service or sinking fund deposits or investments must be credited to the debt service (sinking) fund from which the money was withdrawn. (MCA 7-12-2175)

Suggested Audit Procedure:

- Test interest income from the investment of the RSID bond or warrant proceeds or the debt service fund moneys and determine that the interest income was credited to the appropriate construction or debt service fund, as required by statute.

EXCESS FUNDS USED FOR REDEMPTION:

14. Compliance Requirements:

- Any proceeds from the sale of RSID bonds or warrants, including investment income, remaining after payment of all costs of the improvements, must be transferred to the debt service (sinking) fund in the improvement district and applied to the extent possible to the prepayment and redemption of RSID bonds or warrants on the next succeeding redemption date. (MCA 7-12-2173(3))
- Rural special improvement bonds must be redeemed on any interest payment date from the proceeds of the bonds or warrants remaining after payment of all costs of the improvements, as provided in MCA 7-12-2173, or from the prepayment of assessments levied in the district. (MCA 7-12-2174(2))

Suggested Audit Procedures:

- Determine that any proceeds from the sale of bonds or warrants, including investment income, remaining after the payment of all costs of improvements is transferred to the debt service (sinking) fund of the district.
- Review the balances in the RSID debt service fund and determine that any remaining moneys from RSID bond or warrant proceeds that were transferred to the fund after all costs of the improvements were paid, or funds resulting from prepayments of assessments, were used to the extent possible to redeem bonds on the next redemption date.

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COMPLIANCE REQUIREMENTS AND SUGGESTED AUDIT PROCEDURES:

REVOLVING FUND:

15. Compliance Requirements:

- The commissioners may create, by resolution, a rural special improvement district (RSID) revolving fund. This fund will be used to secure payment of any RSID bonds or warrants. Revolving funds once established may not be eliminated until all bonds and warrants secured thereby and the interest thereon have been fully paid and discharged. (MCA 7-12-2181)
 - In connection with the issuance of rural special improvement bonds or warrants, the board of county commissioners may agree to:
 - a. make loans or advances from the revolving fund to the district fund involved in amounts sufficient to make good any deficiency in the bond and interest accounts, to the extent that funds are available; and to provide funds for the revolving fund pursuant to the provisions of MCA 7-12-2182, by annually making a tax levy (or in lieu of the tax levy, a loan from the county general fund), subject to the maximum limitation imposed by MCA 7-12-2182;
 - OR**
 - b. may determine in the resolution authorizing the issuance of the bonds or warrants that the revolving fund does not secure the bonds or warrants and that the bonds or warrants are payable solely from the district fund created for the bonds or warrants and do not have a claim against the revolving fund.
- (MCA 7-12-2185)

Suggested Audit Procedure:

- Review the accounting records to determine that a rural special improvement district revolving fund exists if there are rural special improvement district bond issues that were issued with the backing of the revolving fund, as described above. Determine if the fund was used for only those purposes described above.

16. Compliance Requirement:

- The board of county commissioners shall, if the RSID bonds or warrants are secured by the revolving fund pursuant to MCA 7-12-2185, include in the cost of the improvements to be defrayed from the proceeds of the bonds or warrants an amount equal to 5% of the principal amount of the bonds or warrants to be issued. This amount must be deposited in the revolving fund.
(MCA 7-12-2153(2) and 7-12-2182)
(**Note:** The above provision applies to all rural special improvement districts created after March 24, 1995, and, at the option of the county, to bonds and warrants issued after March 24, 1995, if the district was created before that date.)

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COMPLIANCE REQUIREMENTS AND SUGGESTED AUDIT PROCEDURES:

REVOLVING FUND - continued:

Suggested Audit Procedures:

- If an RSID was created during the audit period, and if the bonds or warrants are secured by the revolving fund, determine that the county included in the cost of the improvements to be defrayed from the proceeds of the bonds or warrants an amount equal to 5% of the principal amount.
- Determine that the 5% amount referred to above was deposited in the revolving fund.

17. Compliance Requirement:

- The board of county commissioners may transfer money from the general fund to the revolving fund. The county must record the amounts that are transferred as loans from the general fund to the revolving fund. (MCA 7-12-2182(1)(b))

Suggested Audit Procedure:

- Review selected transfers from the general fund to the revolving fund, and determine if these transfers were recorded as loans in the accounting records.

18. Compliance Requirement:

- The county commissioners shall levy a tax for the revolving fund as necessary to meet the financial requirements of the revolving fund. The tax may not be levied in an amount that would increase the balance of the revolving fund above 5% of the principal amount of the then-outstanding rural special improvement district bonds and warrants secured by the revolving fund. No tax may be levied if the balance of the revolving fund exceeds 5% of the principal balance of the then-outstanding rural special improvement district bonds and warrants secured by the revolving fund. (MCA 7-12-2182(1)(c))

Suggested Audit Procedures:

- If a tax was levied for the RSID revolving fund, determine that it was in an amount that did not increase the balance of the revolving fund above 5% of the principal amount of the then-outstanding bonds and warrants that are secured by the revolving fund.
- Determine that no taxes were levied if the balance of the revolving fund was more than 5% of the principal amount of the then-outstanding bonds and warrants that are secured by the revolving fund.

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COMPLIANCE REQUIREMENTS AND SUGGESTED AUDIT PROCEDURES:

DISTRICT RESERVE ACCOUNT:

19. Compliance Requirements:

- The board of county commissioners may create a district reserve account. (MCA 7-12-2153(3)(a))
- As part of the original costs of the RSID improvements, the board of county commissioners may include an amount not to exceed 5% of the principal amount of any SID bonds or warrants issued. This amount (which may be in addition to the amount to be deposited in the revolving fund, as described in MCA 7-12-2153(2) above) must be deposited in a district reserve account created and maintained in the district fund. (MCA 7-12-2153(3)(b))
- If there are insufficient funds in the district bond and interest accounts to pay when due the principal and interest on bonds or warrants, the district reserve account, if established, must be used to pay the principal and interest on the bonds or warrants issued against the district fund. (MCA 7-12-2153(3)(c))
- If bonds or warrants are secured by the revolving fund, the district reserve account, if established, must be exhausted before a loan may be made from the revolving fund pursuant to MCA 7-12-2183. (MCA 7-12-2153(3)(d))
- Money remaining in the district reserve account after the principal and interest on all bonds and warrants drawn on the district have been paid or discharged must be transferred to the revolving fund. (MCA 7-12-2153(3)(e))

(Note: The above compliance requirements apply to all rural special improvement districts created after March 24, 1995, and, at the option of the county, to bonds and warrants issued after March 24, 1995, if the district was created before that date.)

Suggested Audit Procedures:

- Determine whether a district reserve account was established for an RSID created during the audit period, or if bonds were issued for an RSID during the audit period.
- If so, determine that the county included as part of the original costs of the improvements an amount not to exceed 5% of the principal amount of any RSID bonds or warrants issued, and that the amount was deposited in the district reserve account.
- Determine that moneys in the district reserve account were only used to pay principal and interest on the bonds and warrants issued against the district when there are insufficient funds in the district bond and interest accounts.

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COMPLIANCE REQUIREMENTS AND SUGGESTED AUDIT PROCEDURES:

DISTRICT RESERVE ACCOUNT - continued:

Suggested Audit Procedures - continued:

- If the bonds or warrants of the RSID are secured by the revolving fund, determine that the district reserve account was exhausted before a loan was made from the revolving fund.
- If all bonds and warrants drawn on the district have been paid or discharged, determine that any money remaining in the district reserve account was transferred to the revolving fund.

INSUFFICIENT MONEY IN RSID FUND:

20. Compliance Requirement:

- When any RSID bonds or warrants that are secured by the revolving fund or any interest on those bonds or warrants become due and payable, and there is either no money or insufficient money in the appropriate rural special improvement district fund, after a transfer from the appropriate district reserve account, if established, with which to pay the bond, warrant, or interest, an amount sufficient to make up the deficiency must be loaned from the revolving fund to the district fund. The loan must be recorded in the accounting records. (MCA 7-12-2183(1))

(Note: Loans from the revolving fund can now only be made after all available money in the district reserve account has been utilized.)

- In addition, the loan must be made even if, in the case of bonds or warrants bearing interest at a variable rate, the interest rate on the special assessments at the time the loan is made is less than or later becomes less than the interest rate on the bonds or warrants. (MCA 7-12-2183(1))

Suggested Audit Procedures:

- Review selected transfers from the revolving fund to rural special improvement district funds that were used for the payment of principal and interest and determine that the loans were only for an amount sufficient to make up the deficiency.
- Review the accounting records to determine that before any transfer from the revolving fund was made, a transfer from the appropriate district reserve account, if established, was made and that the reserve account was depleted.
- Review the accounting records to determine that loans receivable and payable were properly recorded in the revolving and district funds.

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COMPLIANCE REQUIREMENTS AND SUGGESTED AUDIT PROCEDURES:

EXCESS MONEY IN RSID FUND:

21. Compliance Requirements:

- If there is excess money in a rural special improvement district fund that is secured by the revolving fund, and that money is not needed to make principal and interest payments, the excess must be transferred to the revolving fund to repay any loans. If there is no outstanding loan, the excess may be transferred to the district's maintenance fund if there is one. (MCA 7-12-2182(2))
- After all RSID bonds and warrants secured by the revolving fund have been fully paid, all money remaining in a rural special improvement district fund shall be transferred by the board of county commissioners to the revolving fund or the RSID's maintenance fund. (MCA 7-12-2182(2))

Suggested Audit Procedures:

- Review the balances in selected RSID debt service funds to determine if there are excess funds that are not required to make principal and interest payments. If there are excess funds, review the accounting records to determine that the excesses were transferred to the revolving fund to repay any loans, or to the district's maintenance fund if there are no loans.
- If all bonds and warrants secured by the revolving fund are fully paid in any rural special improvement district, determine that any remaining moneys in the district debt service fund have been transferred to the revolving fund or the RSID's maintenance fund.

INSUFFICIENT MONEY IN RSID MAINTENANCE FUND:

22. Compliance Requirement:

- If there is not enough money in an RSID maintenance fund to pay for the cost of emergency repairs, a loan may be given from the revolving fund. The loan must be repaid in annual installments over a period of not more than three years. The loan must be repaid by an assessment as provided by MCA 7-12-2120 if other funds are not available. The loan may not cause a default in the payments of the principal or interest of the bonds or warrants. (MCA 7-12-2183(2))

Suggested Audit Procedures:

- Review selected transfers from the revolving fund to RSID maintenance funds. Determine that the transfers were recorded as loans and were made in an amount necessary for emergency repairs.

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COMPLIANCE REQUIREMENTS AND SUGGESTED AUDIT PROCEDURES:

INSUFFICIENT MONEY IN RSID MAINTENANCE FUND - continued:

Suggested Audit Procedures - continued:

- If there are loans that were made in previous years, determine that the loan repayments are being made in annual installments over a period of not more than three years. If other funds are not available, determine that an assessment is made to provide funds for repayment of the loan.

REVOLVING FUND LIEN AFTER DEBT PAID:

23. Compliance Requirement:

- If all the bonds and warrants on an RSID have been paid and there is still a debt to the revolving fund, the county commissioners may foreclose on property within the district on which there are unpaid assessments for the purposes of paying off the loan. (MCA 7-12-2184)

Suggested Audit Procedure:

- If there are districts on which all RSID bonds or warrants have been paid that still owe money to the revolving fund, inquire as to whether the commissioners have begun foreclosure proceedings on land within the district on which assessments are delinquent in order to pay off the loan.

EXCESS TRANSFERRED TO GENERAL FUND:

24. Compliance Requirement:

- Whenever there is an amount in the revolving fund in excess of 5% of the then-outstanding RSID bonds and warrants secured by the revolving fund, and the board of county commissioners considers any part of the excess to be greater than the amount needed for the payment or redemption of maturing bonds or warrants secured by the revolving fund or interest thereon, the board may order the excess or any part of it transferred to the county general fund. (MCA 7-12-2186)

Suggested Audit Procedure:

- If any amounts were transferred from the revolving fund to the county general fund during the audit period, determine that the amounts were excess as defined above, and that the board of county commissioners considered the amount transferred to be greater than the amount needed for the payment or redemption of maturing bonds or warrants secured by the revolving fund, or interest thereon.

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COMPLIANCE REQUIREMENTS AND SUGGESTED AUDIT PROCEDURES:

BIDDING:

25. Compliance Requirements:

- The board of county commissioners may call for bids for proposals for several kinds or types of materials for any of the improvements proposed, reserving the right to select the kind or type of materials to be used in making any of the improvements after the bids or proposals have been opened, examined, and declared. (MCA 7-12-2131)

(Note: The above does not apply if the proposed improvement is the conversion of overhead utilities to an underground location)

- A notice inviting proposals and referring to specifications on file with the engineer selected must be published as provided in MCA 7-1-2121, which pertains to publication and content of the notice. (MCA 7-12-2132)

(Note: Competitive bidding is not required for the purchase of an existing improvement. (MCA 7-12-2133))

Suggested Audit Procedure:

- As part of expenditure testing, review minutes of the board of county commissioners meetings, bid files and RSID files to determine that applicable competitive bidding requirements were followed as described above.

26. Compliance Requirements:

- All proposals or bids offered must be accompanied by bid security as provided for in Title 18, chapter 1, part 2. The proposals or bids must be delivered to the county clerk. (MCA 7-12-2131) **(See CNTY 6 for additional information regarding bidding requirements.)**
- The bid security shall be held by the county clerk until the contract for doing said work has been entered into. (MCA 7-12-2137)

Suggested Audit Procedure:

- Review the minutes of governing body meetings, and the requests for bids and bidding files of selected projects and verify that a bid security deposit accompanied all bids.

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COMPLIANCE REQUIREMENTS AND SUGGESTED AUDIT PROCEDURES:

BIDDING - continued:

27. Compliance Requirements:

- The board of county commissioners shall, in open session, publicly open and examine and declare the bids. The time fixed for the opening of the bids shall not be less than 15 days from the time of the final publication of the notice required by MCA 7-12-2132. (MCA 7-12-2134)
- The board of county commissioners shall let the bid to either the lowest bidder or to the owners of over 50% of frontage. (MCA 7-12-2137)
- The board of county commissioners may award the contract for such work or improvement to the lowest responsible bidder at the prices named in his bid and shall reject all proposals other than the lowest regular proposal or bid of any responsible bidder. (MCA 7-12-2135)
- The board may reject any and all proposals or bids if it considers this for the public good. (MCA 7-12-2135)
- The board may also reject the bid of any party who has been delinquent or unfaithful in any former contract with the board. (MCA 7-12-2135)
- If the bids are rejected or no bids are received, the board of county commissioners may within 6 months thereafter readvertise for proposals or bids for the performance of the work as in the first instance, without further proceedings, and thereafter proceed in the manner provided in MCA 7-12-2131 through 7-12-2137). (MCA 7-12-2136)
- All contractors and contracting owners included shall, at the time of executing any contract for any work, execute a bond to the satisfaction and approval of the board of county commissioners, in the form and manner provided for in Title 18, Chapter 2, Part 2, MCA. (MCA 7-12-2138)

Suggested Audit Procedures:

- Review the minutes of governing body meetings, and the requests for bids and bidding files of selected projects. Determine if the provisions as described above were followed.
- Verify that the individuals or firms to whom contracts were awarded were required to provide bonds as required by the above statute.